

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**
Miami Division

CAROL COLE COMPANY, a
California Corporation d/b/a NUFACE,

CASE # 23-CV-2204-DPG

Plaintiff,

vs.

AKIKA.COM, LLC. A Florida Limited
Liability Company d/b/a MY DERMA DREAM;
WOUTER AKIKA, an individual; ANTONIO DURANTE,
an individual; and DOES 1 through 10, Inclusive

Defendant(s) /.

DEFENDANT DURANTE'S VERIFIED ANSWER & AFFIRMATIVE DEFENSES

Defendant, ANTONIO DURANTE through counsel Answers and Defends Plaintiff's
Second Amended Complaint and states as follows:

1. Defendant is without knowledge of the allegations contained within Paragraphs 1 – 4
and 6 – 151 of the Second Amended Complaint and demands strict proof thereof.

2. Defendant Durante admits that he was made a Manager of Defendant Akika.com, LLC
(hereafter "Akika"). This was done as a matter of convenience to Akika whose principals reside
in Europe. Durante owns no interest in Akika and received no benefits from Akika other than
service fees paid to a company called Business 5.0, LLC. d/b/a MyUSAService.com. (hereafter
"MyUSAService"). At the time, May, 2022, Durante was a 1/3rd owner of MyUsaService and
MyUsaService assisted Akika with opening a bank account, with filing an annual report and with
forwarding mail for Akika. Defendant Durante did reside in South Carolina. He has since moved

to Florida. Durante has since submitted his resignation as Manager of Akika. Further, Durante relinquished his ownership interest in MyUSAService in August, 2022.

AFFIRMATIVE DEFENSES

1. In or about May, 2022, Defendant Akika contacted MyUSAService.com to assist it with opening a bank account and filing its Florida Annual Report with the Florida Department of State. The principals of Akika were foreigners and MyUSAService is in the business of assisting non-US entrepreneurs operate their business remotely. In exchange, Akika paid MyUSAService \$2,006.75 in fees including out of pocket costs.¹ Defendant Durante admits that he was made a Manager of Defendant Akika in order to assist in the provision of services by MyUSAService. This included being made a Manager of Akika a matter of convenience to enable Akika to open a bank account. Durante owns no interest in Defendant Akika and received no benefits from Akika other than service fees paid to MyUSAService. Durante sold and or transferred his ownership interest in MyUSAService in or about August 9, 2022.

2. Plaintiff may not prevail herein against Defendant Durante who is not personally responsible for the acts of Defendant Akika. Durante, through a company he was involved with, Business 5.0, LLC. d/b/a MyUSAService.com, provided business services to Akika to handle local paperwork. Defendant Durante has and had no ownership interest whatsoever in Defendant Akika, has and had no management duties or obligations for Akika and has done nothing to blur corporate lines, such as ignoring corporate formalities or using a corporation for his own personal interest. Durante did not do or participate in any illegal, fraudulent, or other unjust

¹ Attached hereto and incorporated by reference herein is a copy of an email between MyUSAService and Akika outlining the services to be provided and fees to be charges by MyUSAService.

purpose. Durante has received no benefits from Akika other than service fees paid to MyUSAService.

3. Plaintiff may prevail herein to pierce the corporate veil and hold Defendant Durante responsible for the acts of others. Durante has done nothing to disregard the corporate form for his benefit; Akika is not and was not his company and he invested nothing in Akika. The corporate veil may not be removed or pierced at will by others. In general, the impropriety required to pierce the corporate veil is present only in cases in which the corporation was a mere device or sham to accomplish some ulterior purpose³ or improper goal, such as misleading or defrauding creditors, hiding assets, evading the requirements of a statute or some analogous betrayal of trust. To the best of Durante's knowledge, Akika was not organized or employed by the members of Akika for fraudulent or misleading purposes, the corporate property was not converted or the corporate assets depleted for the personal benefit of the individual members of Akika and to the best of Durante's knowledge Akika was established as a business in good faith.

4. To the extent Durante incurs costs, legal fees and/or any and all alleged damages, Durante has a legal or equitable right of contribution or indemnification against co-defendants Akika.

WHEREFORE, Defendant, ANTONIO DURANTE, through counsel respectfully prays that Plaintiff's Second Amended Complaint be dismissed with prejudice against him and that he recover his costs and disbursements herein and any further relief the Court deems just and reasonable.

VERIFICATION

Under penalties of perjury and PER § 92.525 (2) F.S. I declare that I have read the foregoing, that I have personal knowledge of the facts set forth herein and that the facts set forth are true and accurate.

ANTONIO DURANTE

08-14-2023 
(date)

Respectfully submitted August 16, 2023

/s/ S. David Sheffman

By: _____

S. David Sheffman, J.D., LL.B.

FBN: 717568

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email on the day of August 16, 2023, on all counsel or parties of record on the Service List below after being electronically filed with the Clerk of Court using CM/ECF.

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RECEIVED

Respectfully submitted August 16, 2023

/s/ S. David Sheffman

By: _____

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Defendant

Akika.com LLC
a Florida limited liability company
doing business as
My Derma Dream

represented by **Eric Misterovich**
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MyUSAService Support <support@myusaservice.com>

Your Company Bank account setup information

16 messages

support@myusaservice.com <support@myusaservice.com>

To: wouter@akika.com

Tue, May 17, 2022 at 12:34 PM



Hello Akika,

It was a pleasure talking to you yesterday. In this email, I include all the information about our processes and our services.

As we discussed, we will setup your bank account with the following banks: Bank of America or Truist
We will appoint the manager for your LLC that will open the bank account in your company behalf.

We just saw that you haven't filed the annual report of your company which deadline was 1st May 2022.
This will need to be addressed before appointing the manager. The late charge fee to file the Annual report is **\$400**.
\$138.75 is the fee for filling the annual report. We do charge **\$50** for doing this for you is you want us to take care of this.

Bank account setup fees

1. Bank account + Manager (\$468 annual fee) **\$1,418** (includes \$100 deposit on the account)
2. Annual Report + late fee + MyUSAService fee **\$588.75**

Optional Company Services

1. Accounting and annual Corporate Tax Return **\$750**
2. Mailing address and Mail Forwarding Service **\$12.90** (monthly fee, up to 25 content scans)

Time frames:

- Approximately 1 week to open the bank account

Documents required:

- For the Bank account we need a copy of your valid Passport
- Company documents: EIN + Articles of Organization.

Bank account setup costs are **COMPLETELY TAX DEDUCTIBLE**, so you will be able to deduct this investment from your U.S. taxes

If you have any questions or concerns, please let me know.

I look forward to help you with your business!

Emanuel Wijkhuisen

MyUSAservice.com

Telephone: (786) 796-1303

E-mail: support@myusaservice.com

wouter akika <wouter@akika.com>

To: support@myusaservice.com

Sat, May 21, 2022 at 2:08 AM

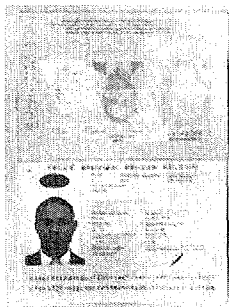
Hi,

Here are the documents required: passport, EIN, and articles of organization.

[Quoted text hidden]



3 attachments



PASPOORT_SCAN.jpeg

1930K



Confirmation_Letter_AKIK.COM LLC (1).pdf

25K



Akika.com LLC -Articles of Organization (1).pdf

184K

support@myusaservice.com <support@myusaservice.com>

To: wouter akika <wouter@akika.com>

Sat, May 21, 2022 at 1:22 PM

Hello Akika,

Thank you for your reply.

Do you want us to take care also of the late fees of the annual report for the late filing? total amount of \$588.75?

Please let us know so we can send you the payment link with the correct amount.

Looking forward to your reply.

Emanuel Wijkhuisen

MyUSAservice.com

Telephone: (786) 796-1303

E-mail: support@myusaservice.com

[Quoted text hidden]

wouter akika <wouter@akika.com>

Sat, May 21, 2022 at 4:48 PM

To: support@myusaservice.com

Yes

[Quoted text hidden]

--

Met waarderende groeten,

Wouter Akika



AKIKA.COM

EST. 2018

support@myusaservice.com <support@myusaservice.com>

Sat, May 21, 2022 at 9:40 PM

To: wouter akika <wouter@akika.com>

Hello Akika,

Below the link to remit payment for the bank account opening and annual report annuale fee payment.

<https://buy.stripe.com/00g5mU1Tub9cb8AbIS>

Let me know if you need any information

Thank you,